IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

Bail Appl..No. 5128 of 2007()

OPID.532/2005 of FAMILY COURT,KOLLAM
CRIME NO.424/07 OF KUNDARA POLICE STATION.

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PETITIONER/ACCUSED (A1)

SHAJI, S/O JACOB,
SHAJI BHAVANAM,
MULAVANA P.O., KUNDARA,
KOLLAM DISTRICT.

BY ADV. SRI.K.V.ANIL KUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No.5128 OF 2007

Dated this the 5th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner is the husband of the de facto complainant. He is the 1st accused. The co-accused have already been granted anticipatory bail. The marriage took place in 1992. Two female children have been born in the wed-lock. The marriage is in doldrums. Divorce proceedings are pending. The allegations are now raised, inter alia, under Secs.498-A and 307 of the IPC. A crime has been registered on the basis of a private complaint filed by the de facto complainant before the learned Magistrate which has been referred by the learned Magistrate to the police under Sec.156(3) of the Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There is strain in the

matrimony. On account of such strain, false, frivolous, vexatious and exaggerated allegations are being raised against the petitioner. The petitioner may, in these circumstances, be granted anticipatory bail. He does not deserve to suffer the trauma of arrest and incarceration, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the prayer for anticipatory bail. The learned Public Prosecutor has taken me through the averments in the complaint filed on the basis of which the crime has been registered under Sec.307 of the IPC also. There is no allegation of physical cruelty resulting in any specific or tangible injuries. No wound certificate is also made available, submits the learned Public Prosecutor. I reckon the stand taken by the learned Public Prosecutor to be absolutely reasonable. The arrest and incarceration of the petitioner is likely to mar all chances of reconciliation in marriage which has remained in force from 1992. I am satisfied that anticipatory bail can, in these circumstances, be granted to the petitioner.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 11/9/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 12/9/07 and 13/9/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to

arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 11/9/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 11/9/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge